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**OFFICE OF PETITIONS
AND PATENTS**

In re Application of
Joel A. Ronning
Application No. 08/488,195
Filed: June 7, 1995
Attorney Docket No. 10678.1US01

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ON PETITION

This letter is in response to your petition filed March 3, 1997 under the provisions of 37 CFR 1.28(c) for the above-identified application.

Two recent district court decisions have considered the practice of submitting a fee deficiency under 37 CFR 1.28(c) and have reached conflicting conclusions. See DH Technology v. Synergstex International, Inc., 937 F.Supp. 902, 40 USPQ2d 1754 (N.D. Cal. 1996); and Jewish Hospital of St. Louis v. Idexx Laboratories, 951 F.Supp. 1 (D. Me. 1996).

In DH Technology, supra, the District Court for the Northern District of California held that the submission of the balance of the full issue fee under 37 CFR 1.28(c) must also meet the requirements of 37 CFR 1.317. 937 F.Supp., at 909; 40 USPQ2d at 1761. DH Technology is currently under appeal to the Court of Appeals for the Federal Circuit (Federal Circuit).

Since a decision by the Federal Circuit in DH Technology is expected to resolve the conflict concerning 37 CFR 1.28(c), the PTO is holding the acceptance of all submissions of fee deficiencies under 37 CFR 1.28(c) in abeyance pending a decision in DH Technology by the Federal Circuit. See 1198 Official Gazette 27 (May 6, 1997).

Upon a final resolution of the conflict by the Federal Circuit, appropriate action on the petition under 37 CFR 1.28(c) will be undertaken. In the meantime, the file will be held in the Office of Petitions. Additionally, the fees received with the petition will be retained without prejudice to these fees being returned upon final disposition if the petition under 37 CFR 1.28(c) is found unfavorable to applicant. However, if return of these fees is desired before final disposition of the conflict by the Federal

Circuit, a request may be made in writing to the address noted below.

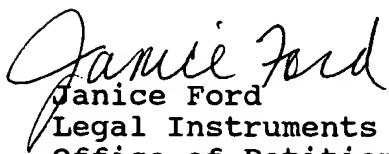
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By FAX: (703) 308-6916
 Attn: Office of Petitions

By HAND: One Crystal Park, Suite 520
 2011 Crystal Drive
 Arlington, Virginia

Telephone inquiries concerning this matter may be directed to Robert W. Bahr at (703) 305-9285.



Janice Ford
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